

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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Applicant(s): Johannes Hendrikus Maria Lemmers Group Art Unit: 2421
Serial No. 10/565,816 Confirmation No. 7555
Filed: January 24, 2006 Examiner: Hance, Robert J.
For: HANDLING FEATURE AVAILABILITY IN A BROADCAST

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Mail Stop Appeal Brief - Patents
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REPLY BRIEF

Sir/Madam:

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This reply brief is in response to Examiner's Answer of June 25, 2009.

I. Status of Claims

Claims 1-12 were originally filed on January 24, 2006. In a preliminary amendment filed on January 24, 2006, claims 10 and 11 were canceled. In
5 response to the Office Action of April 10, 2008, claim 1-4, 8 and 9 were amended, and new claim 12 was added. Claims 1-9 and 12 stand finally rejected and form the subject matter of the present appeal.

Claims 1-9 stand rejected under 35 U.S.C. §103(a) as allegedly being
10 unpatentable over “Digital Television Application Manager,” 2001 IEEE International Conference on Multimedia and Expo, pages 685-688 (“Peng et al.”) in view of U.S. Patent No. 7,216,170 (“Ludvig et al.”). Claim 12 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Peng et al. and Ludvig et al. and further in view of U.S. Pat. App. Pub. No. 2003/0217369 A1
15 (“Heredia”).

This Appeal is made with regard to pending claims 1-9 and 12.

II. Grounds of Rejection to be Reviewed on Appeal

Whether claims 1-9 are unpatentable under 35 U.S.C. §103(a) over Peng et al. in view of Ludvig et al.

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Whether claim 12 is unpatentable under 35 U.S.C. §103(a) over Peng et al. and Ludvig et al. and further in view of Heredia.

III. Argument

A. Rejection of Claims 1, 8 and 9 Under 35 U.S.C. §103(a)

5 The Examiner on pages 4 and 5 of Examiner's Answer alleges that
"Ludvig et al. disclose an AIT which contains data necessary to execute a plurality
of applets (col. 13 line 66 – col. 14 line 32; Fig. 3: 304)" and that "[i]n the
combined system of Peng and Ludvig, the AIT (i.e. feature data related to said
first feature and said second feature – Ludvig col. 13 line 66 – col. 14 line 32) is a
10 part of the first Xlet (Peng Section 1 Paragraph 6 – the AIT is necessary for the
first Xlet to be run, therefore it is a part of the first Xlet)." Applicant respectfully
disagrees with these assertions by the Examiner.

 First, the cited reference of Ludvig et al. does not disclose an AIT that
15 contains data necessary to execute a plurality of applets. The cited reference of
Ludvig et al. fails to disclose that the described AIT is used to execute applets.
The AIT of Ludvig et al. is described with reference to "applications." However,
there is no mention that the AIT of Ludvig et al. is used to execute a plurality of
applets. In fact, there is no mention of any applets or Xlets in the cited reference
20 of Ludvig et al. Thus, the Examiner has relied on an erroneous interpretation of
Ludvig et al. for the rejection of claims 1, 8 and 9.

 Second, even assuming that the AIT of Ludvig et al. contains data
necessary to execute a plurality of applets, the combined system of Peng et al. and
25 Ludvig et al. would not include the limitation of "*the feature data related to said
first feature and said second feature being part of said first Xlet*," as recited in the
independent claim 1. As correctly noted on page 4 of Examiner's Answer, "Peng
et al. fail to disclose that said data relating to said first Xlet further comprise
feature data needed to execute at least a second independent feature; and that the
30 feature data related to said first feature and said second feature being a part of said
first Xlet." However, with respect to the cited reference of Ludvig et al., the
Examiner asserts that Ludvig et al. teaches these limitations in a conclusory
manner. The Examiner has failed to provide factual support for this assumption.
The Examiner has cited a passage from column 13, line 66, to column 14, line 32,

of Ludvig et al. in support of the Examiner's assertion. However, Examiner has failed to point to particular elements in the cited passage that can be equated to the claimed "*first independent feature*" and the claimed "*second independent feature*," as well as feature data related to these first and second features. In any case, the cited passage of Ludvig et al. clearly does not teach that the AIT includes feature data for a first independent feature and feature data for a second independent feature that are both necessary to run the first Xlet. Thus, the Examiner has failed to establish a *prima facie* case of obviousness for the independent claim 1 using the cited references of Peng et al. and Ludvig et al.

The above remarks are also applicable to the independent claims 8 and 9, which include limitations similar to those of the independent claim 1. As such, the Examiner has also failed to establish a *prima facie* case of obviousness for the independent claims 8 and 9 using the cited references of Peng et al. and Ludvig et al.

B. Rejection of Dependent Claims 2-7 and 12 Under 35 U.S.C. §103(a)

Each of the dependent claims 2-7 and 12 depends on one of the independent claims 1, 8 and 9. As such, these dependent claims include all the limitations of their respective base claims. Thus, these dependent claims are patentable for at least the same reasons as their respective base claims.

SUMMARY

The Examiner has failed to establish a *prima facie* case of obviousness for the independent claim 1 using the cited references of Peng et al. and Ludvig et al. since neither of these references disclose the claimed limitation of "*the feature data related to said first feature and said second feature being part of said first Xlet.*" The Examiner has similarly failed to establish a *prima facie* case of obviousness for the independent claims 8 and 9 using the cited references of Peng et al. and Ludvig et al. The dependent claims 2-7 and 12 are patentable for at least the same reasons as their respective base claims.

For all the foregoing reasons, it is earnestly and respectfully requested that the Board of Patent Appeals and Interferences reverse the rejections of the Examiner regarding claims 1-9 and 12, so that this case may be allowed and pass
5 to issue in a timely manner.

Respectfully submitted,
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Date: August 25, 2009

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